

Speech of Hon. Wm. B. Shepard, OF PASQUOTANK COUNTY.

In the Senate of North Carolina, session of 1850 '51, on the bill to ascertain the sense of the people on calling a Convention.

An engrossed bill from the House of Commons, proposing to take a vote of the people upon the propriety of calling a Convention to amend the Constitution being before the Senate, Mr Wm. B. Shepard spoke as follows:

I have so often, Mr Speaker, during this session addressed the Senate, that it is with great reluctance I again intrude upon it. I feel, however, that some reply should be made to the remarks of the gentleman from Rutherford, who has just taken his seat, as well as to those which fell from the gentleman from Buncombe yesterday. The bill upon your table proposes to take the voice of a majority of the people, upon the propriety of calling a Convention to amend the Constitution. The Constitution itself points out precisely the mode of calling Conventions, and amending the instrument. The gentleman from Rutherford has made the discovery, that amendments to the Constitution, made through the instrumentality of a Convention, were more suitable to the genius of our people, and more republican, than when made by the act of the Legislature, which act is afterwards to be ratified by the people. It seems to me, Mr Speaker, if either of the two modes of amendment, sanctioned by the Constitution, can be called particularly republican in its character, the one by bill is undoubtedly entitled to this distinguishing trait. When an amendment is made by an act of the Legislature which is afterwards submitted to the people for their approval, a vote is taken upon the proposed measure alone; it must stand upon its own merits, and not rely upon extraneous circumstances, for success. On the contrary, should a Convention be called, the whole Constitution will be laid before that body, and such amendments as it may think proper to make, will be submitted in gross to the people; the consequence will be, some few popular amendments will be incorporated with others of doubtful expediency, and the popular amendments made to carry others which, if left to themselves, would not receive the votes of a majority of the people. I am not, therefore, Sir, at all surprised that both the gentleman from Rutherford and Buncombe, are so unwilling to see Free Suffrage by itself and alone, submitted to the people. If they could have persuaded the Senate to reject the Free Suffrage bill, and retain it for agitation, as a popular clamour, to urge the necessity for an unlimited Convention, they might have stood some chance of succeeding. As it is now, however, when the cry for Convention is reduced to its own merits exclusively, I think the prospect of success very small; because there is not, in fact, the slightest necessity for a Convention, nor any reason why the people should be subjected to its unavoidable expense and turmoil. There is no amendment of the Constitution desired by a constitutional majority of the people, which cannot be procured more certainly, at a less risk and trouble, by legislative enactment than by a Convention. This feature of our Constitution, so far from deserving the denunciations it has received from some gentlemen, is, in my judgment, its wisest, its most conservative feature. It is the very feature which gives to the people themselves, the sole and exclusive right of deciding what and how many amendments shall be made to the Constitution. The gentleman from Rutherford says, were a Convention called, it would be composed of the wisdom, the gravity, and the experience of the State. I am afraid, Sir, should he live to see a Convention assembled in North Carolina, his Utopian visions will be sadly disappointed. It will be composed of precisely the same sort of people as those who compose this Senate; a little wiser perhaps, probably not much older, or more experienced, but they will be men, governed by like passions and prejudices with ourselves, each one struggling to obtain some power or advantage for his own section, and thinking it meritorious to do so. This a natural result of a Convention was perfectly well known to the framers of our Constitution, and, for that reason, they made a vote of two-thirds of the Legislature necessary to the call; and that it should never be done upon light and frivolous reasons, a mode was pointed out by which the sense of the people could be taken, upon all proposed amendments.

A very large majority of the people seem to desire Free Suffrage. This subject has been much discussed in two gubernatorial campaigns, and a bill has been passed, submitting that question to the people; should the change be approved of by such a majority as would justify a change of the organic law, it will be made without disturbing any other feature of the instrument. Should it hereafter be found that a decided majority of the people are in favor of the mode of electing the judges by the people, or of altering the basis of representation as now established, let each of these questions separately and distinctly, be fairly discussed, and fully understood by them, and then let the vote be taken upon each proposition by itself. I do not wish a Convention, where the friends of measures could combine, and force the people to take them all, in order to get some one measure they might desire.

It is, therefore, Mr Speaker, perfectly manifest, that so far as amending the Constitution in any manner that may be the wish of a constitutional majority of the people of North Carolina, is the object, there is not the slightest necessity for a Convention. Gentlemen, therefore, who are urging a Convention so vehemently, and who will be satisfied with nothing but a Convention, must have some ulterior object in view. They have even spurned Free Suffrage, the object of their first love, which, if I mistake not, was, two years ago, so fondly

cherished and petted upon this floor, by all those valiant gentlemen, who so gallantly defended the rights of the downtrodden and oppressed West. Why is this so, Sir? We might, for some time, look for a solution of this mystery, if the gentleman from Buncombe had not, in his speech yesterday, kindly furnished us with a solution. I requested the reporters to note that speech carefully, and to publish it verbatim, that the whole of North Carolina might know the real cause of all this uproar about a Convention. It seems, then, that a Convention is desired by the gentleman from Buncombe and those who act with him, not because the West is oppressed by our present Constitution, but solely to change the basis of representation, that the West which has now the command of the House of Commons, may likewise get control of the Senate, and then, says the gentleman, we can extend our Railroad to Tennessee and redeem the character of North Carolina.

Behold the gentleman from Buncombe unfolds the banner of a Convention, and inscribes upon it what he confesses to be its real object, viz: to give to the non-tax-paying counties the unlimited power of taxation, without any control whatever, I would advise him to look closely into this matter, and see what rank and cruel injustice it would work. Let us examine the district represented by the gentleman from Buncombe, and see where, and in what, his constituents are oppressed by the provisions of the present Constitution, and compare them with the burdens thrown upon my constituents, that we may exactly understand which party has the greater right to adopt his favorite notion of rebellion or revolution; or, in any more convenient manner, to destroy the Constitution under which they live. I select, Sir, these two districts at hazard, not because they afford the best defence of the present Constitution, but because they more immediately concern the gentleman and myself.

The district represented by the gentleman, is composed of the counties of Buncombe, Henderson and Yancy. It contains a population of 19,057 whites, and paid into the State Treasury in 1847, \$2,152 79. It is represented in the Senate by one member, and by four in the House of Commons. The district represented on this floor by me, has a white population of 8,640 and paid to the State Treasury in 1847, \$2,598 98. Thus we see, Sir, that the people whom I have the honor to represent on this floor, paid 19 more than the constituents of the gentleman from Buncombe, and are represented in the Legislature by two members. Should the gentleman from Buncombe succeed in his wishes, to change the representation in the Senate, the people of Pasquotank and Perquimans although paying largely more revenue than Buncombe, Haywood and Yancy, would be represented in the Senate, and would stand as two to four in the House of Commons.

Now, Sir, I appeal to the gentleman's own fairness, and ask him if he had the power, would he commit such rank injustice as this? In what are his constituents oppressed by the present arrangements of the Constitution? They have largely the majority in the House of Commons; no bill can possibly become a law without the approval of the Western members, and in the Senate his has an equal vote with my constituents, although they pay much less revenue to the State. Does the gentleman think it a grievance, that, because he desires a splendid scheme of a Railroad extending to Tennessee, he has not likewise the unlimited power of taxation, which would enable him to throw the larger part of the burden of such Railroad upon people who have not, and never can have, any interest whatever in it?

Whatever may be the wishes of the gentleman from Buncombe on this subject, I will not believe he speaks the feelings of his people. The land of the mountain and the torrent is proverbially the abode of the free and the brave. I will not believe that, whilst they cherish so fondly the inestimable blessings of freedom, they would, knowingly, place upon any portion of their brethren a most oppressive burden. Why, then, gentlemen may say, reject a Convention? In reply, I vote against a Convention, not because I doubt the justice and fairness of the people of the West, but because I have no confidence in the politicians who would fill that Convention. The gentleman from Buncombe, who would doubtless play a conspicuous part in that Convention, should it assemble, has already told us that he desires the power, and the means, to make an extensive Railroad. Such being his wishes, he would think it all right and proper, and would be even able to convince some of our Eastern political aspirants, that the interest of the State would be vastly benefited, by transferring the right to tax, from those who pay, to those who do not pay.

No man in the Senate is more ready than myself to strike from our constitution any feature that is burdensome to the West, or to give them any additional guards for the protection of their persons and property. But when gentlemen get up here, and coolly tell me, they wish the right and power to put their hands in my pocket, and take my money without my consent; to cut down mountains and fill up valleys, from which I can, in no conceivable manner, derive any benefit, they must at least expect a very severe scuffle before they succeed.

What, Sir, was the object in the formation of government? Solely and for no other purpose, than the protection of persons and property. Property is exclusively the creature of government. And when to this fundamental principle of all governments, there was added, by the American revolution, the great conservative principle "that taxation and representation should go together," our ancestors supposed they had perfected the designs of this institution.

I do not believe, Sir, that the wit of man could devise a more perfect scheme for the security of the persons and property of an extended commonwealth, organized upon republican principles, than the present basis of representation, as contained in our present Constitution. The House of Commons represents persons, for although the basis is a federal one, slaves being in the eye of our law both persons and property, still the House of Commons may be said with truth purely to represent the white population of the country, as that population has a vast numerical majority, and alone speaks through the ballot-box, and controls without an effort and without dispute, the proceedings of that House. The Senate, based upon taxation, and is intended to secure the property of the different sections from invasion, or from being used for purposes alien to that property, or in which it could have and feel no interest. It is based upon the plain and obvious truth, that those persons who pay for the support of government, should have some voice in appropriating its revenues. Mr Madison said in the debates on the federal constitution, that "wherever there is a danger of attack, there ought to be a constitutional power of defence." This was the opinion of one of our greatest statesmen.

Let not gentlemen deceive themselves by the success of Free Suffrage. That question did not raise any sectional issue; it had numerous partisans in all parts of the State, and for years had been regarded by many persons, as an odious individual distinction, that ought to be blotted from our Constitution. The basis of representation is a very different matter; it involves the very security and protection of much the larger portion of the property which pays revenue for the support of Government; and it cannot be abandoned by those persons to whose charge it is now committed, without admitting themselves unworthy of the trust confided to them. I gentlemen wish a hobby, by means of which some gubernatorial aspirant may ride into the Executive Chair, I beg them to select something that will produce less disastrous results to the best interests of the State.

As regards the bill upon your table, which proposes to consult the people upon the propriety of calling a Convention, in addition to the evils of a Convention already mentioned, this bill is liable to a very serious charge. It proposes indirectly to reach a result, in a mode directly opposed to the one mentioned in the Constitution. And this result is urged by me, but a few days ago, made this hall ring with patriotic devotion to constitutional law. Then, the very idea of consulting the people upon a matter deeply interesting to them, raised all sorts of horrors in their minds; now, it seems, a positive injunction is laid upon the Legislature, that they be disregarded, when another favorite purpose is to be answered.

Well, Sir, suppose this bill passes, and a majority of the people, but not a constitutional majority of counties, express themselves favorable to the assembling of a Convention; gentlemen will be no nearer a Convention than they are now, unless they intend to get up a Dorr rebellion, and after succeeding in a popular vote, to march to Raleigh, capture the Capitol, form a Constitution, and install a Governor. I hope, whilst they are doing all this, they will not forget to send to Rhode Island and borrow that celebrated sword of the unfortunate Gov. Dorr, that the play be correctly performed with all the appropriate accompaniments. It remains for this Senate to decide whether they will countenance such a proceeding in law-abiding, law-abiding North Carolina. Pass this bill, sent us from the House of Commons, and you array the two sections of the State in deadly hostility to each other, and we must see, in a few months, the glorious assembly in this Capitol, calling themselves the people, acting over the same scenes, which but a few years ago brought the State of Rhode Island to the verge of destruction, and consigned the leaders and delinquents of the people to prison and the contempt of mankind.

Now, Sir, since this table was made, I have seen the Register of the State, containing an "Address to the people of North Carolina, on the subject of constitutional reform." This address is signed by Members of the Legislature, and is a most interesting document. It contains a list of the 23 counties contained in this list, intended to illustrate the unreasonableness of the compromise made in the present Constitution. This address shows very clearly that the great grievance complained of by these gentlemen, is the mode of representation, and that they will not consent that this can only be got rid of, by calling what the address calls a "Free Convention." In this opinion I agree with the Register, and I believe that the people themselves will never agree to such a Convention, but will adhere to the compromise of the Constitution, and whoever it may be, who attempts to do otherwise, let him be regarded as an enemy to the subject matter, and not by politicians assembled in Convention.

From the Raleigh Standard. PROCEEDINGS OF THE COUNCIL OF STATE. Called Session of the Legislature. Pursuant to a call of the Governor, the Council of State met in this City on the 18th instant, and a quorum not appearing, the Council adjourned to the 20th, when a quorum was in attendance. Wilson S. Hill, Esq. was chosen President, and Mr W. H. Jones, Secretary. We have been permitted to copy, for the information of our readers, the proceedings of the Council in relation to a called session of the Legislature. The following communication was received from Gov. Reid, and considered: EXECUTIVE OFFICE. Raleigh, May 20, 1852. GENTLEMEN: The construction placed on the 2d clause of the 1st section of the 3d article of the Constitution of the United States, requires the vote for President and Vice President in 1852 to be according to the Census of 1850. This construction has been generally acquiesced in, and will, I presume, be adopted by all the States. Although I have not been officially informed of the fact, yet it is well understood that North Carolina, according to the late apportionment, will only be entitled to ten Electoral votes in the next election. The act of the General Assembly of this State at the session of 1842-'3 divided the State into eleven Electoral districts. Therefore the act of Assembly provides for the election of eleven Electors, while the State under the late apportionment will only be entitled to ten Electoral votes. The next election for President and Vice President will take place before the regular period appointed by law for the meeting of the General Assembly. It is provided by law that the Governor may with the advice of the Council of State, call a meeting of the General Assembly, if the same shall be absolutely necessary, at a sooner day than the same may be adjourned to or appointed to meet." I submit to your consideration, whether under the circumstances it does not become necessary to convene the General Assembly at an earlier day than is provided by a law for its regular meeting, to have further legislation to avoid illegality in the election for President and Vice President. If your body should advise the General Assembly to be convened for the purpose I have mentioned, the question then arises as to the most appropriate time for the meeting. It occurs to me that it should not be called together till after the next August election. The Constitution provides that "the Senate of this State shall consist of fifty representatives, biennially chosen by ballot, and to be elected by districts; which districts shall be laid off by the General Assembly, at its first session after the year one thousand eight hundred and forty-one; and afterwards at its first session after the year one thousand eight hundred and fifty-

one." It is also provided that the apportionment of the members of the House of Commons "shall be made by the General Assembly, at the respective times and periods when the districts for the Senate are herein before directed to be laid off." If the General Assembly should be called together before the regular period, it would of course be a session, and the first session after the year one thousand eight hundred and fifty-one. The language of the Constitution is not the first regular or biennial session, but "at its first session." It would, therefore, seem that if the Legislature is convened the Constitution requires the Senatorial districts to be laid off and the members of the House of Commons to be apportioned. If it is convened before the next August election it will be composed of members chosen in 1850, who, I presume, were not elected with a view to laying off the Senatorial districts and apportioning the members of the House of Commons. I therefore submit whether a regard for public interest and a respect for public opinion, do not require that the time for convening the General Assembly should be postponed till the first Monday in October next. The Legislature then called together would be fresh from the people, and fully prepared to reflect their will upon these subjects and all others.

The next session of the General Assembly will in all probability be one of more than ordinary length. Laying off the Congressional and Senatorial districts, apportioning the members of the House of Commons, and acting upon the Report of the Commissioners appointed to revise the Statutes, added to the ordinary business of legislation, will protract the session. The people might go on and in their primary meetings nominate their candidates for Electors, and the General Assembly, when convened, might pass the necessary act in time for the Presidential election. The Legislature could then proceed to lay off the Senatorial districts and apportion the members of the House of Commons; repeal, for the session, the act fixing the time for the meeting of the General Assembly, and then act upon the Report of the Committee appointed to revise the Statutes, or upon any other business of legislation. In this way it seems to me the expense and inconvenience of an extra session might be avoided.

This communication, you will observe, is predicated upon the fact that the term of the members of the Legislature commences at the regular biennial election in August. Upon this point I think there can be no doubt. It has been said that this construction would operate as an inconvenience, for if the office of Governor were to become vacant after the election in August, then there would be no Speaker of the Senate to succeed him. Even admitting this to be true, it argues nothing; for we all know that an inconvenience experienced from a provision in the Constitution does not authorize us to change its construction. The Constitution provides that members of the Assembly shall be biennially chosen. All seem to admit that they are elected for a term of two years. In 1835 the Constitution was amended, and instead of each County having a Senator and two members of the House of Commons, a different mode of representation was substituted. Although the amended Constitution was ratified in November, 1835, an ordinance of the Convention postponed its operation till the 1st of January, 1836. The Constitution which went into effect on that day, abolished the Assembly elected under the old Constitution, and consequently the first Assembly chosen under the new Constitution was elected at the summer elections of 1836. The term of the members of that Assembly commenced from the election then, it must be so now, for the Constitution has not been changed since that time.

I most respectfully ask your advice in relation to convening the General Assembly. I am, very respectfully, Your obt. servant, DAVID S. REID.

TO THE COUNCIL OF STATE. Whereupon it was ordered, that the Council of State do advise the Governor to call a session of the members of the General Assembly to be elected in August next, to meet in the City of Raleigh, on the first Monday in October next, as proposed in the preceding communication. W. S. HILL, Pres. of Coun. No further business coming before the Council, that body adjourned.

A Valuable Recipe.—We are informed by an old and respectable farmer of this vicinity, that tea made from a vegetable commonly known as "rag weed" is an infallible remedy for dysentery, or what is more generally known as "bowel complaint" in children. The tea is made in the usual way, and administered until the patient is relieved. Rag weed grows spontaneously on almost every farm. Our informant says he has used it in his family for the last twenty years, and never knew it to fail when properly administered.

WOODEN NUTMEGS OUTDOSE.—The Paris correspondent of the National Intelligencer gives us some laughable information.—It appears that the French have learned to make counterfeit coffee berries of worthless flour. The paste or dough is, by means of moulds skillfully prepared, made to assume the shape of grains of coffee, whether of Mocha, or Bourbon, or Martinique, to suit the taste of buyers. The artificial grain is then baked until it takes the color of parched coffee, and is retailed as such, with great profit, in the grocery stores. The practice, very general in France, of buying from the grocers coffee ready parched, facilitates this mode of falsification, otherwise impossible.

HANGED.—David Mason, who was convicted of the murder of his wife, was hung in Asheville, N. C., on 21st inst. He died protesting his innocence.

FAYETTEVILLE MARKET. Corrected for the North Carolinian. MAY 22, 1852.

Table listing market prices for various goods including BACON, BEESWAX, COFFEE, COTTON, DOMESTIC GOODS, FEATHERS, FLOUR, GRAIN, HIDES, IRON, LARD, MOLLASSES, SALT, SUGAR, and WILMINGTON MARKET.

Table listing market prices for various goods including BACON, CORN, FLOUR, RIVER LUMBER, TURPENTINE, and SUGAR.

A PROCLAMATION, By His Excellency, DAVID S. REID, Governor of the State of North Carolina.

Whereas, three-fifths of the whole number of members of each House of the General Assembly did at the last session pass the following Act: AN ACT to amend the Constitution of North Carolina. Whereas, The freehold qualification now required for the electors for members of the Senate conflicts with the fundamental principles of liberty; Therefore,

Section 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, three-fifths of the whole number of members of each House concurring, that the second clause of the third section of the first article of the amended Constitution ratified by the people of North Carolina on the second Monday of November, A. D. 1835, be amended by striking out the words "and possessed of a freehold within the same district of fifty acres of land for six months next before and at the day of election," so that the said clause of said section shall read as follows: All free white men of the age of twenty-one years (except as is hereinafter declared) who have been twelve months immediately preceding the day of any election and shall have paid public taxes, shall be entitled to vote for a member of the Senate.

Section 2. Be it further enacted, That the Governor of the State be, and he is hereby directed, to issue his Proclamation to the people of North Carolina, at least six months before the next election for members of the General Assembly, setting forth the purport of this Act and the amendment to the Constitution here proposed, which Proclamation shall be accompanied by a true and perfect copy of the Act, authenticated by the certificate of the Secretary of State, and the Governor of the State shall cause to be published in all the newspapers of this State, and posted in the Court Houses of the respective Counties in this State, at least six months before the election of members to the next General Assembly.

Read three times and agreed to by three-fifths of the whole number of members of each House respectively, and assented in General Assembly, this 24th day of January, 1851. J. C. DOBBIN, S. C. W. N. EDWARDS, S. C. STATE OF NORTH CAROLINA, } Office of Secretary of State, } I, William Hill, Secretary of State, in and for the State of North Carolina, do hereby certify that the foregoing is a true and perfect copy of an Act of the General Assembly of this State, drawn off from the original on file in this office. Given under my hand, this 31st day of Dec. 1851. WM. HILL, Sec'y of State.

And whereas, the said Act provides for amending the Constitution of the State of North Carolina, and as to confer on every qualified voter for the House of Commons the right to vote also for the Senate; Now, therefore, to the end that it may be made known that if the aforesaid amendment to the whole representation in each House of the next General Assembly, it will then be submitted to the people for ratification, I have issued this my Proclamation in conformity with the provisions of the before recited Act. In testimony whereof, David S. Reid, Governor of the State of North Carolina, hath hereunto set his hand and caused the Great Seal of said State to be affixed. Done at the city of Raleigh, on the thirty-first day of December, in the year of our Lord one thousand eight hundred and fifty-one, and in the 75th year of our Independence. DAVID S. REID, By the Governor, THOMAS SETTLE, Jr., Private Sec'y.

Table listing market prices for various goods including BACON, BEESWAX, COFFEE, COTTON, DOMESTIC GOODS, FEATHERS, FLOUR, GRAIN, HIDES, IRON, LARD, MOLLASSES, SALT, SUGAR, and WILMINGTON MARKET.

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